

INTERACTIVE PROCEDURES

In compliance with the provisions of the Americans with Disabilities Act (ADA) and the Department of Fair Employment and Housing (DFEH), the Return to Work Section representative will coordinate a meeting with the employee and other significant employees within the department. This meeting will be conducted when:

- The Work Hardening assignment has reached the twelfth week and the employee is not medically able to return to their usual and customary assignment.
 - ✓ At this meeting a determination will be made as to whether the present Work Hardening assignment can be continued or whether there is another Work Hardening assignment available.
- The employee has a non-industrial condition which precludes them from returning to their usual and customary assignment.
- The RTWC receives the Temporary Work Restrictions from the Third Party Administrator (TPA). The restriction indicates the employee is permanent and stationary (P&S), meaning the employee's medical condition has reached a plateau and is not expected to improve or worsen.
- The restriction letter has been reviewed by the RTWC and the employee's immediate supervisor to determine whether the employee may be returned to one of the following:
 - ✓ The usual and customary occupation.
 - ✓ A modified position. This is the usual and customary job with some modifications.
 - ✓ An alternative position. This is a job other than the usual and customary.

- For modified or alternative jobs, the following must be met to comply with Workers' Compensation requirements:
 - ✓ The physical requirements must be within the treating physician's recommendations.
 - ✓ The job must be a regular position lasting at least 12 consecutive months.
 - ✓ The modified position must provide the same wages, hours and benefits as the position held at the time of injury.
 - ✓ The alternative position must provide at least 85% of the wages at the time of injury.
 - ✓ The job must be within a reasonable commute.

If the offer of modified/alternative work meets all of the above and is made to the employee on the DWC-AD 10133.53 form for injuries occurring on or after January 1, 2004, (attachment) within 30 days of the P&S (Permanent and Stationary) report, or within 30 days of the termination of temporary disability indemnity payments, the statutory employer's obligation to provide vocational rehabilitation or to pay for Supplemental Job Displacement Benefits (SJDB) would have been fulfilled. The employee has 30 days to accept or reject it.

Upon notification that no modified or alternative assignment is available, the RTWC conducts the following:

- Notifies the supervisor or division to complete an Essential Job Function Form for the specific usual and customary job of the employee (sample attached).
- Conduct a telephone interview with the employee to identify additional job skills and interests that may assist in placement of the employee.
- Conduct a department wide search for alternate work assignment.

When all of the information is collected the RTWC will schedule a meeting. The following personnel may be present:

- Employee
- ADA Coordinator
- Division Representative or Supervisor
- Return to Work Coordinator
- CEO Return-to-Work Unit representative
- Employee has the option of inviting his/her counsel, relative, friend, union representative or advisor

The agenda for the interactive meeting should include the following:

- Review of the essential job functions of the employee's usual and customary job.
- Discussion of the feasibility of reasonable accommodation requested by the employee.
- Discussion of an alternative position to include those positions which may require a medical y-rating to include a possible LACERA supplement.
- Discussion of disability retirement if the employee is in Retirement Plans A, B, C, or D.
- Discussion of Medical Separation/Release if the employee is in Retirement Plan E and is eligible to receive or receiving Long-Term Disability (LTD) benefits, and has met the Federal Social Security Act (FSSA) criteria for Total Disability. This means the employee cannot perform "Any Occupation" in the labor market.

- Discussion of Supplemental Job Displacement Benefits (SJDB), and an explanation of this benefit, for employees with injuries occurring on or after January 1, 2004.

During the meeting, the RTWC must record any agreements or questions that need follow-up on the “Interactive Process Meeting Agreement” form (sample attached). All parties in attendance must also sign this form. This provides documentation of the process. A letter memorializing the highlights of the discussion and agreements may be sent to the employee for record purposes if applicable.

All parties should know what the next step will be at the end of the meeting. Some of the possibilities may include:

- Placing the employee in an alternative position.
 - ✓ If this position pays less than the usual and customary position, then the employee is counseled to file for supplementation from LACERA under section 31725.5 of the California Government Code. This can occur only if the employee is a member of a contributory retirement plan (A, B, C, or D). While waiting for LACERA approval, the department can provide this supplement through a y-rate. If the employee is a member of Retirement Plan E, the department can request a y-rate through CAO Compensation Division.
 - LACERA can supplement the employee’s salary up to 50% of the salary of the original position for “service – connected disability and up to 1/3 of the salary of the original position for “non-service connected disability. LACERA should be contacted directly regarding each individual case.
- Counseling the employee to file for a disability retirement (plans A through D) if there is no other position found. Provide information to LACERA as necessary.
- If the employee’s injury causes permanent partial disability, that prevented them from returning to work within 60 days after the last payment of temporary disability, and it is determined the TPA has not

provided the employee with a “Notice of Offer of Modified or Alternative Work” DWC-AD 10133.53 form, the employee may be eligible for SJDB in the form of a non-transferable voucher for educational-related retraining or skill enhancement, or both, at state approved or accredited schools.

- Give the employee time to return to the treating physician for clarification of work restrictions and job duties to be performed. A job analysis may help to clarify the job duties to be presented to the physician. The job analysis can be requested by the Third Party Administrator (TPA) adjuster, if the employee has had an industrial injury.

Please keep in mind that this is an ongoing process. More than one meeting with the employee may be needed. The number of meetings necessary will depend upon the specifics of that particular situation.